

01
02
03
04
05
06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 BRIAN K. JOHNSON,) CASE NO. C08-0232-RSM-MAT
09 Plaintiff,)
10 v.) ORDER DENYING PLAINTIFF'S
11 KING COUNTY, et al.,) MOTION FOR APPOINTMENT OF
12 Defendants.) COUNSEL
13 _____)

14 This matter comes before the Court on plaintiff's motion for appointment of counsel. The
15 Court, having reviewed plaintiff's motion, and the balance of the record, does hereby find and
16 ORDER:

17 (1) Plaintiff's motion for appointment of counsel (Dkt. No. 47) is DENIED. There is
18 no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court,
19 under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma*
20 *pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789
21 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);
22 *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires

01 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
02 articulate his claims pro se in light of the complexity of the legal issues involved. *Wilborn*, 789
03 F.2d at 1331.

04 Plaintiff has not demonstrated that he is unable to articulate his claims pro se. Thus,
05 plaintiff has not demonstrated that this case involves exceptional circumstances which warrant
06 appointment of counsel at the present time.

07 (2) Defendants' cross-motion for summary judgment (Dkt. No. 36), plaintiff's motion
08 for summary judgment/order to reconsider (Dkt. No. 46), and defendants' motion to dismiss (Dkt.
09 No. 49) are RE-NOTED on the Court's calendar for consideration on ***December 19, 2008*** . If
10 plaintiff wishes to be heard in opposition to defendants' motion to dismiss this action based upon
11 plaintiff's failure to comply with this Court's Order compelling plaintiff to submit to a deposition,
12 he must file a response to defendants' motion not later than ***December 15, 2008***.

13 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants, and
14 to the Honorable Marsha J. Pechman.

15 DATED this 24th day of November, 2008.

16 

17 Mary Alice Theiler
18 United States Magistrate Judge
19
20
21
22